

**Agency Description**

The Office of the Secretary of State conducts its daily operations through a single program: the Business and Government Services Program. The agency receives its entire funding from one enterprise fund and one internal service fund. The internal service fund is intended to support the operations of the Records Management Bureau and the enterprise fund supports the remaining operations of the office.

**Proprietary Rates**

*Records Management (Fund 06556)*

**Proprietary Program Description**

The Records Management Bureau is responsible for storing, accessing, microfilming, scanning, preserving, and disposing of public documents generated by state and local governments.

**Proprietary Revenues and Expenses**

In fiscal 2002, the Records Management Bureau had revenues of \$341,000 from records storage and imaging fees paid by state agencies. These revenues were received from the following funding sources in the percentages and approximate amounts listed:

- General fund (13.1 percent), \$44,800
- State special revenue (9.5 percent), \$32,600
- Federal special revenue (58.3 percent), \$198,800
- Proprietary funds (17.5 percent), \$59,600
- All other funds (1.6 percent), \$5,300

In fiscal 2002, revenues funded personal services for 10.00 FTE and operating costs. Personal services of \$238,213 were 57.3 percent of expenses, with operating costs making up the remaining \$177,728 or 42.7 percent of bureau expenses.

The table below shows the financial data for the fund from fiscal 2000 through fiscal 2005. This report shows operating expenses have been more than operating revenues since fiscal 2001 resulting in operating losses that have reduced fund balance to a negative nearly \$100,000. The fund maintains solvency with an advance of \$190,000 from the Secretary of State business services enterprise fund.

**Report on Internal Service and Enterprise Funds, 2005 Biennium**

Fund	Fund Name	Agency #	Agency Name	Program Name
06556	Records Management	32010	Secretary of State	Business & Government Services

	actual FY00	actual FY01	actual FY02	budgeted FY03	budgeted FY04	budgeted FY05
<b>Operating Revenues:</b>						
Fee revenue						
Intra-State Services	320629	336066	341007	407500	455000	485000
Miscellaneous Receipts	42416	37010	32327	42500	37500	40000
Administrative Fees	75600	98070	0			
Documents Sold	26,075	42,670	-	-	-	-
Net Fee Revenue	499,134	494,290	357,759	450,000	492,500	525,000
Investment Earnings	-	-	-	-	-	-
Securities Lending Income	-	-	-	-	-	-
Premiums	-	-	-	-	-	-
Other Operating Revenues	26,918	20,303	14,966	-	-	-
Total Operating Revenues	526,052	514,593	372,725	450,000	492,500	525,000
Intrafund Revenue	-	-	-	-	-	-
Net Operating Revenues	526,052	514,593	372,725	450,000	492,500	525,000
<b>Operating Expenses:</b>						
Personal Services	380,128	292,768	238,213	196,776	294,019	265,828
Other Operating Expenses	285,325	231,460	172,900	187,207	239,508	176,061
Miscellaneous, operating	2,274	3,844	4,828	-	-	-
Miscellaneous, other	-	-	-	-	-	-
Total Operating Expenses	667,727	528,072	415,941	383,983	533,527	441,889
Intrafund Expense	-	-	-	-	-	-
Net Operating Expenses	667,727	528,072	415,941	383,983	533,527	441,889
Operating Income (Loss)	(141,675)	(13,479)	(43,216)	66,017	(41,027)	83,111
<b>Nonoperating Revenues (Expenses):</b>						
Gain (Loss) Sale of Fixed Assets	-	-	-	-	-	-
Federal Indirect Cost Recoveries	-	-	-	-	-	-
Other Nonoperating Revenues (Expenses)	-	-	-	-	-	-
Net Nonoperating Revenues (Expenses)	-	-	-	-	-	-
Income (Loss) Before Operating Transfers	(141,675)	(13,479)	(43,216)	66,017	(41,027)	83,111
Contributed Capital	6,129	6,129	-	-	-	-
Operating Transfers In (Note 13)	-	-	-	-	-	-
Operating Transfers Out (Note 13)	-	-	-	-	-	-
Retained Earnings/Fund Balances - July 1 - As Restated	92,595	(49,080)	(56,430)	(99,646)	(33,629)	(74,656)
Net Income (Loss)	(135,546)	(7,350)	(43,216)	66,017	(41,027)	83,111
Retained Earnings/Fund Balances - June 30	(42,951)	(56,430)	(99,646)	(33,629)	(74,656)	8,455
60 days of expenses						
(Total Operating Expenses divided by 6)	111,288	88,012	69,324	63,997	88,921	73,648

**Requested Rates for Internal Service Funds:**

Various rates, that allow for continued support of the office, are requested and are currently published in ARMS or established by the Secretary of State's Office.

## Proprietary Rate Explanation

Figure 1 shows the historical and requested fees for the 2005 biennium for the Records Management Bureau. The fees have not changed from those charged during the 2003 biennium.

Figure 1							
Secretary of State Proposed Internal Service Fees and Charges							
		Fiscal 2000	Fiscal 2001	Fiscal 2002	Fiscal 2003	Fiscal 2004	Fiscal 2005
1. Administrative Rules of Montana Fees							
a. Administrative Rules of Montana	per set	\$350.00	\$350.00	\$350.00	\$350.00	\$350.00	\$350.00
b. Quarterly updates of ARM	per year	250.00	250.00	250.00	250.00	250.00	250.00
c. Extra titles	per title, multi-part \$125.00	50.00	50.00	50.00	50.00	50.00	50.00
d. Quarterly updates of extra titles	per year per title	50.00	50.00	50.00	50.00	50.00	50.00
e. Montana Administrative Register	per subscription	300.00	300.00	300.00	300.00	300.00	300.00
f. Agency filing fee for pages of register publication	per page	35.00	40.00	40.00	40.00	40.00	40.00
g. Binders	per binder		5.00	5.00	5.00	5.00	5.00
h. Lapsed subscription fee ARM	per subscription		50.00	50.00	50.00	50.00	50.00
i. Lapsed subscription fee extra title	per title		10.00	10.00	10.00	10.00	10.00
j. Fax fee - 10 pages or less	first 10 pages		3.00	3.00	3.00	3.00	3.00
k. Fax fee - additional pages over 10 pages	per page		0.25	0.25	0.50	0.50	0.50
2. Records Management Fees (based on 2-6-103, MCA)							
a. 16MM Microfilm							
Less than 250,000		30.00	38.58	38.58	38.58	38.58	38.58
Non-typical extreme weight & size		36.75	38.58	38.58	38.58	38.58	38.58
8" x 11"; 8" x 14" paperwork		25.00	30.00	30.00	30.00	30.00	30.00
8" x 11"; 8" x 14" computer printout		22.05	30.00	30.00	30.00	30.00	30.00
Extreme size & weight variance		27.50	31.50	31.50	31.50	31.50	31.50
Cards - fixed weight & color		15.00	15.75	15.75	15.75	15.75	15.75
Cards - mixed weight & color		25.00	26.25	26.25	26.25	26.25	26.25
b. 35MM Microfilm							
L (per 12" x 12") aerial photos		65.00	68.25	68.25	68.25	68.25	68.25
16" x 20" bound books		60.00	63.00	63.00	63.00	63.00	63.00
24" x 34" newspapers		110.00	115.50	115.50	115.50	115.50	115.50
24" x 34" bound newspapers		130.00	136.50	136.50	136.50	136.50	136.50
48" x 48" blueprints/maps		275.00	288.75	288.75	288.75	288.75	288.75
c. 105MM Microfilm							
8" x 11" paperwork		65.00	68.25	68.25	68.25	68.25	68.25
8" x 11"; 8" x 14" computer printout		73.50	77.17	77.17	77.17	77.17	77.17
Cards (per 1000)		73.50	77.17	77.17	77.17	77.17	77.17
Minimum filing charge		37.50	37.50	37.50	37.50	37.50	37.50
d. Film Processing							
16mm, 100 foot roll		3.45	3.62	3.62	3.62	3.62	3.62
16mm, 215 foot roll		6.76	7.10	7.10	7.10	7.10	7.10
35mm, 100 foot roll		6.05	6.35	6.35	6.35	6.35	6.35
16mm, 3M cartridges		4.50	4.73	4.73	4.73	4.73	4.73
e. Film Inspecting							
100 foot roll inspection	per roll	3.50	3.65	3.65	3.65	3.65	3.65
215 foot roll inspection	per roll	4.98	5.23	5.23	5.23	5.23	5.23
Film splicing		0.75	0.79	0.79	0.79	0.79	0.79
3M cartridge loading		2.25	2.25	2.25	2.25	2.25	2.25
f. Duplication							
16mm, 100 foot roll	per roll	6.48	6.81	6.81	6.81	6.81	6.81
16mm, 215 foot roll	per roll	12.41	13.03	13.03	13.03	13.03	13.03
35mm, 100 foot roll	per roll	8.77	9.21	9.21	9.21	9.21	9.21
105mm, microfiche or jackets		0.15	0.16	0.16	0.16	0.16	0.16
Reader/printer copies		0.50	0.50	0.50	0.50	0.50	0.50
Photocopies/own labor		0.10	0.10	0.10	0.10	0.10	0.10
Photocopies/our labor		0.50	0.50	0.50	0.50	0.50	0.50
16mm, 100 foot roll	per roll	9.45	9.92	9.92	9.92	9.92	9.92
35mm, 100 foot roll	per roll	13.85	14.54	14.54	14.54	14.54	14.54
g. Jacket Loading							
16mm, 5 channel jacket		0.30	0.3150	0.3150	0.3150	0.3150	0.3150
Agency's own jacket		0.275	0.2887	0.2887	0.2887	0.2887	0.2887
35mm, 1 & 2 channel jacket		0.30	0.3150	0.3150	0.3150	0.3150	0.3150
Loading 16mm aperture card		0.25	0.2625	0.2625	0.2625	0.2625	0.2625
Jacket title		0.25	0.2625	0.2625	0.2625	0.2625	0.2625
Jacket notching		0.05	0.0525	0.0525	0.0525	0.0525	0.0525
h. Miscellaneous							
Fiche title	per title	0.25	0.2625	0.2625	0.2625	0.2625	0.2625
Indexing and document prep/hour	per hour	14.00	18.00	18.00	18.00	18.00	18.00
Camera rental	per day	95.00	95.00	95.00	95.00	95.00	95.00
i. Supplies							
NMI reader bulbs	per bulb	10.75	10.75	10.75	10.75	10.75	10.75
16mm, 100 foot roll film	per roll	6.68	6.68	6.68	6.68	6.68	6.68
16mm, 215 foot roll film	per roll	12.95	12.95	12.95	12.95	12.95	12.95
35mm, 100 foot roll film	per roll	12.95	13.95	13.95	13.95	13.95	13.95
j. Records Center Services							

**LFD  
COMMENT****Sustained Operating Losses**

The report for fund 06556 shows that the division continues to have operating losses in the records management internal service fund. The office compensates for these losses with a sustained subsidy from the Secretary of State business services enterprise fund that receives revenues from entities outside of state government. The records management fund is intended to support the records management function that receives revenues from state and local governments to store and retrieve public records of government entities. With costs to provide the function consistently higher than the revenues derived from the fees charged to provide the function, the fees are not high enough to fully recover the costs of the function.

The 2001 legislature, in essence, approved this practice of not basing fees for the records management functions upon the full costs of providing the function when it passed HB 639. HB 639 added a section to law allowing fees charged by the office to be commensurate with overall costs of the Office of the Secretary of State. HB 639 allows one fee to subsidize another fee but specifies that all fees together should be adequate to recover the costs to operate the office. However, the office continues to operate using two funds, specifically established to account for separate functions, serving two different fee-paying customer groups.

The legislature may wish to either: 1) encourage the office to adjust fees for the internal service fund to levels that would make the records management function of the office self supporting and allow it to repay funds borrowed from the enterprise fund; or 2) approve fees requested for the internal service fund with full knowledge that the fees are not adequate to fully fund the functions they support.

*Secretary of State Business Services (Fund 06053)***Proprietary Program Description**

The Secretary of State business services enterprise fund is used to account for costs and revenues for all office functions, except for the records management functions. The office administers corporate filings, registers assumed names and trademarks, processes notary public registrations, and administers the Administrative Rules of Montanan (ARM) and the Montana Administration Register. The office reviews, approves, maintains, and distributes records of business and nonprofit organizations, and registers and maintains records of secured financial transactions under the Uniform Commercial Codes, including agricultural products, in accordance with the Federal Food Security Act of 1985. The Secretary of State serves as Montana's chief election official and is responsible for the interpretation of application of election laws, except those pertaining to campaign finance. The office also qualifies candidates for the ballot, qualifies initiatives and referendums for the ballot, certifies the language and form of the ballot, publishes the official state voter-information pamphlet, conducts the official canvass of election results, and trains local election officials.

**Proprietary Revenues and Expenses**

The table below shows the financial data for the fund from fiscal 2000 through fiscal 2005. This report shows the fund balance has grown to \$2.2 million by the end of fiscal 2002 or 94 percent of annual expenses. Financial data shown for future operations indicate that this balance would remain above \$2.0 million through the 2005 biennium, even after adjustments and new initiatives for the 2005 biennium have been funded. At the end of fiscal 2002, nearly \$1.4 million of this fund balance was in cash or short-term investments.

**Report on Internal Service and Enterprise Funds, 2005 Biennium**

Fund	Fund Name	Agency #	Agency Name	Program Name
06053	Sec Of State Business Services	32010	Secretary of State	Business & Government Services

	actual FY00	actual FY01	actual FY02	budgeted FY03	budgeted FY04	budgeted FY05
<b>Operating Revenues:</b>						
Fee revenue						
Filing Fees	1952067	1887720	2442291	2270000	2431838	2394394
Administrative Fees	62,921	80,928	197,903	185,000	199,923	209,041
Documents Sold	54,022	94,972	134,210	112,350	126,078	141,511
Miscellaneous Fees	4,193	5,199	35,285	4,000	37,401	38,929
Copy & Certificates Fees	114,705	113,492	126,739	120,000	134,133	131,508
Net Fee Revenue	<u>2,270,143</u>	<u>2,240,404</u>	<u>2,832,504</u>	<u>2,691,350</u>	<u>2,929,373</u>	<u>2,915,383</u>
Investment Earnings	47,164	51,125	27,281	40,000	20,000	10,000
Securities Lending Income	2,245	363	492	-	-	-
Premiums	-	-	-	-	-	-
Other Operating Revenues	5,094	5,584	36,003	-	-	-
Total Operating Revenues	<u>2,324,646</u>	<u>2,297,476</u>	<u>2,896,280</u>	<u>2,731,350</u>	<u>2,949,373</u>	<u>2,925,383</u>
Intrafund Revenue	-	-	-	-	-	-
Net Operating Revenues	<u>2,324,646</u>	<u>2,297,476</u>	<u>2,896,280</u>	<u>2,731,350</u>	<u>2,949,373</u>	<u>2,925,383</u>
<b>Operating Expenses:</b>						
Personal Services	1,116,943	1,259,343	1,563,925	1,377,485	1,624,083	1,635,267
Other Operating Expenses	1,229,363	1,307,840	800,816	1,346,239	1,527,336	1,258,555
Miscellaneous, operating	11,236	26,704	29,220	-	-	-
Miscellaneous, other	-	-	-	-	-	-
Total Operating Expenses	<u>2,357,542</u>	<u>2,593,887</u>	<u>2,393,961</u>	<u>2,723,724</u>	<u>3,151,419</u>	<u>2,893,822</u>
Intrafund Expense	-	-	-	-	-	-
Net Operating Expenses	<u>2,357,542</u>	<u>2,593,887</u>	<u>2,393,961</u>	<u>2,723,724</u>	<u>3,151,419</u>	<u>2,893,822</u>
Operating Income (Loss)	<b>(32,896)</b>	<b>(296,411)</b>	<b>502,319</b>	<b>7,626</b>	<b>(202,046)</b>	<b>31,561</b>
<b>Nonoperating Revenues (Expenses):</b>						
Gain (Loss) Sale of Fixed Assets	-	-	-	-	-	-
Federal Indirect Cost Recoveries	-	-	-	-	-	-
Other Nonoperating Revenues (Expenses)	-	-	-	-	-	-
Net Nonoperating Revenues (Expenses)	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Income (Loss) Before Operating Transfers	<b>(32,896)</b>	<b>(296,411)</b>	<b>502,319</b>	<b>7,626</b>	<b>(202,046)</b>	<b>31,561</b>
Contributed Capital	-	-	-	-	-	-
Operating Transfers In (Note 13)	-	-	-	-	-	-
Operating Transfers Out (Note 13)	-	-	-	-	-	-
Retained Earnings/Fund Balances - July 1 - As Restated	962,049	2,036,932	1,740,521	2,242,840	2,250,466	2,048,420
Net Income (Loss)	<u>(32,896)</u>	<u>(296,411)</u>	<u>502,319</u>	<u>7,626</u>	<u>(202,046)</u>	<u>31,561</u>
Retained Earnings/Fund Balances - June 30	<b>929,153</b>	<b>1,740,521</b>	<b>2,242,840</b>	<b>2,250,466</b>	<b>2,048,420</b>	<b>2,079,981</b>
60 days of expenses (Total Operating Expenses divided by 6)	392,924	432,315	398,994	453,954	525,237	482,304

Various rates are currently published in ARMS or established by the Secretary of State's Office that allow for continued support of the office.

**LFD  
ISSUE****High Balance**

The fund balance for the Secretary of State business services enterprise fund has grown to a level adequate to fund nearly a full year of operations. Given this high level and the information presented by the office for its use through the 2005 biennium, the legislature may wish to transfer a portion of this fund balance to the general fund to address the revenue shortfall.

**LFD  
ISSUE  
(continued)**

If the legislature transferred \$500,000 to the general fund, the fund balance would still be at a level to fund more than a half-year of expenses at the end of the 2005 biennium.

There are two issues when determining whether and to what extent to deposit the fund balance to the general fund:

- Should payers of the fees receive a rebate? Providing refunds or rebates to entities that paid fees that were higher than those needed to fund the operations of the office would provide the most equitable means to reduce the fund balance to a more appropriate level. However, the large number of entities that would receive small refunds and the costs to determine and distribute refunds significantly reduces the viability of using refunds as an option to lower the fund balance
- Is it appropriate to take fees paid by businesses and use the balance for purposes other than supporting the regulatory and service function of the office? The fees support work of the Secretary of State that do not directly benefit those paying the fees, such as the office's election duties and the Secretary of State's work on the state land board. With the fees already financing other general government services, transferring a portion of the fund balance to the general fund to further support general government services would not depart from existing practices of the office

**Options**

The legislature may wish to consider the following options for dealing with the high fund balance of the Secretary of State business services enterprise fund:

- Transfer a portion of the excess fund balance to the general fund. To minimize any impacts the transfer would have on the cash flow of the office, transfer half of the amount in each fiscal year
- Provide direction to the Secretary of State to charge only what is necessary to fund operations of the office, with a reasonable ending fund balance and working capital level

**Proprietary Rate Explanation**

The various fees that fund the secretary of state business services enterprise fund are published in the ARMS or are established by the Secretary of State.

**Significant Adjustments for the 2005 Biennium**

The Secretary of State included one present law adjustment and one new proposal for increased expenses totaling more than \$1.4 million for the 2005 biennium. No information was provided to determine the impact these adjustments would have on rates of the office.

Adjustments included in the rate request are:

- An increase of \$375,305 for the biennium of enterprise funds to add 7.45 FTE funded with the enterprise fund (5.00 FTE seasonal staff, 0.95 FTE exempt staff, 1.00 FTE mailroom clerk, and 0.50 FTE administrative support)

An increase of \$1,055,000 for the biennium for projects to replace or upgrade information technology resources of the office. Of the total funding \$100,000 would come from the records management internal service fund and \$955,000 would come from the Secretary of State enterprise fund and would be used to:

- Replace the system used by compliance staff to review corporation filings and other business documents for compliance with statutes regulating registration of business structures including profit and nonprofit corporations, partnerships, limited partnerships, limited liability partnerships, limited liability companies, professional limited liability companies, assumed business names, and trademarks
- Evaluate, reengineer, and automate the process used to publish changes to the ARM
- Microfilm, scan into digital images, and index corporate records such as: articles of incorporation, by-laws, and annual reports

**LFD  
ISSUE****Offsetting Savings Stated but Not Included**

The justification for this request stated that the savings from reducing contractor costs, decreasing training time, and creating a pool of returning staff would offset the costs associated with funding for 5.00 FTE seasonal staff included in this request. However, the reduction isn't reflected in the anticipated expenses for the internal service fund. If the report reflected the savings the office claims, the fund balance would be \$209,000 higher by the end of the 2005 biennium than that shown on the report.

The legislature may wish to consider the stated savings and the higher fund balance this would produce when it determines if it would transfer a portion of the fund balance to the general fund.